



Association for Local Telecommunications Services

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September 26, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. Thomas Boasberg
Legal Advisor
Office of the Chairman
Federal Communications Commission
Washington, D.C. 20554

Re: Request for Expedited Letter Clarification--Inclusion of Local Calls to ISPs Within Reciprocal Compensation Agreements, CC No. 96-98

Dear Tom:

Mr. Dave Ruberg, CEO of Intermedia Communications, Inc., and Ms. Heather Burnett Gold, President of ALTS, are scheduled to meet with Chairman Hundt on Monday, September 29, 1997, at 3:00 pm. Because they intend to discuss ALTS' pending request for clarification concerning the treatment of traffic to ISPs when exchanged between ILECs and CLECs, I'd like to review the current status of this matter for you.

First, ALTS took care in framing its request to avoid implicating any of the jurisdictional issues involved in the Eighth Circuit's Iowa Utilities Board v. FCC decision -- a case in which ALTS has supported the Commission's jurisdictional position and looks forward to supporting its petition for certiorari. ALTS appreciates and supports constructive cooperation between the Commission and the states, and emphatically rejects the claims of some commentators that its requested clarification seeks to have the Commission assert jurisdiction over local calls.

Second, ALTS was also careful to craft its request to avoid implicating any of the many important policy issues raised in the Commission's pending Internet NOI (Usage of the Public Switched Network by Information Service and Internet Access Providers) (CC Docket No. 96-263, released December 24, 1996)). Given the time that will likely be needed to decide these important issues concerning the future of the Internet, and the fundamental relationship between the public switched network and the TCP/IP network, ALTS' request studiously avoids these matters

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even though some commenters have unsuccessfully tried to inject various NOI issues into ALTS' request.

Accordingly, what ALTS seeks is the following simple letter clarification:

"We hereby clarify that our long-standing rule requiring calls to ISPs from within local calling areas be treated as local for regulatory purposes also includes reciprocal compensation arrangements between ILECs and CLECs. Our rule clearly was never limited to just the application of local tariffs to ISP traffic because ILECs have also treated this traffic as local in their separations reports, rate cases, ARMIS reports, and in reciprocal compensation agreements among themselves. Accordingly, ISP traffic exchanged between ILECs and CLECs should also be treated as local pursuant to applicable reciprocal compensation arrangements."

Nothing in this proposed clarification implicates the Eighth Circuit's opinion, now would it affect the states' current authority to set rates for reciprocal compensation. Furthermore, nothing in it would prejudge any of the Internet NOI issues, or undercut the Commission's treatment of Internet traffic in its Access Charge Reform proceeding.

Turning to state activity on this matter, Connecticut and Maryland have recently joined Arizona, Colorado, Minnesota, Oregon and Washington in upholding ALTS' interpretation of the ISP rule, and I note that the New York Staff also agrees. No state has adopted the ILECs' position.

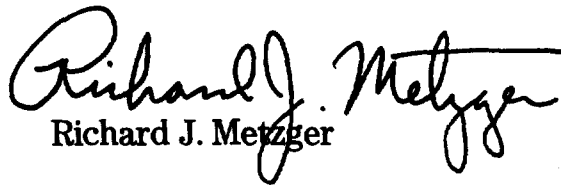
While it is gratifying to obtain the consistent support of the states on this important issue, it is inappropriate and potentially counter-productive for ALTS to continue relying on state interpretations of a Commission rule. Sooner or later some state will take a misstep on this issue, thereby triggering confusion, litigation, and heightening the need for Commission action, but in a more emotionally charged context.

In addition to the pressing need to preclude an aberrant state outcome, this is a case where the merits fall clearly on ALTS' side (I enclose Bell Atlantic's reply comments in the Local Competition acknowledging Internet traffic's inclusion in reciprocal compensation agreements, and I also point to the ILECs' longstanding practice of including this traffic in reciprocal compensation agreements among

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themselves). The plain lack of any merit to the ILECs' position, coupled with the Commission's announced commitment to furthering local competition, make Commission action imperative. We respectfully request that ALTS' request be granted immediately.

Yours truly,


Richard J. Metzger

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